

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6519 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

PARASHIYA @ PARESH @ FADU @ DISH MANILAL KAHAR

Versus

COMMISSIONER OF POLICE

Appearance:

MR SATISH R PATEL for Petitioner

Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 4-5-96 passed by the Police Commissioner, Baroda City whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 4-5-96 itself and since then the

petitioner is under detention lodged at Jamnagar Jail, Jamnagar.

2. The present Special Civil Application was filed in this court on 29-8-96 and on 30-8-96 Rule returnable on 27-9-96 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit of the detaining authority has been filed.

3. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has stressed the point that no case of breach of public order is made out.

4. In view of the law laid down by this court on 4-10-96 in Special Civil Application No.3879/96 and the law laid down by the Supreme Court in 1995 (2) GLR 1268 (M.J.Shaikh v. M.M. Mehta, C.P.) it is clear that the allegations and materials relied upon by the detaining authority against the petitioner, who has been detained as a dangerous person, do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order, therefore, deserves to be set aside on this ground alone.

5. Accordingly the Special Civil Application is allowed and the impugned detention order dated 4-5-96 passed by the Police Commissioner, Baroda City is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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